



CENTRAL DOME,
The Great Library, Osgoode Hall

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FIREPLACE,
The Great Library, Osgoode Hall



Introduction

The Law Society of Upper Canada...

was formed in Newark, now Niagara-on-the-Lake, in 1797 when 10 practitioners met and called themselves and five others to the Bar. Six Benchers were appointed, one of whom, Attorney General John White, became Treasurer, as the head of the Society is called, following the tradition of the English Inns of Court.

In 1822 The Society was incorporated so as to have power to hold lands and in 1828 it purchased 6.4 acres on what is now Queen Street at the head of York Street and built the nucleus of Osgoode Hall which has been extended many times over the years.

The first meeting of the Benchers took place in The Society's new premises on February 6, 1832. Osgoode Hall has been home to The Society ever since.

In 1846, The Society entered into an agreement with the Provincial Government to provide accommodation at Osgoode Hall for the Superior Courts of Law and Equity and the Provincial Government remained a tenant of The Law Society until 1874. In that year, The Society deeded to the government the areas of Osgoode Hall which now house the Supreme Court of Ontario.

THE LAW SOCIETY OF UPPER CANADA ...

is the governing body of Ontario's lawyers and is responsible for their education, licencing, supervision and discipline. The Society's affairs are conducted by 44 elected and appointed Benchers, 40 of whom are chosen by their colleagues during elections held every four years, four are appointed by the Lieutenant Governor-in-Council and there is a small number of ex-officio Benchers.

Treasurer's Message



This is the third Annual Report of the Law Society to be published in this format. As in past years you will find reports from each of the Standing Committees of Convocation on their work in the last year together with the audited financial statements and general information about the Law Society and its staff.

The last year saw many changes in personnel at the Law Society both among the Benchers and the senior staff.

Three Benchers were appointed to judicial office: Mr. Justice W. Dan Chilcott and Mr. Justice James B. Chadwick were appointed to the High Court of Justice for Ontario and Mr. Justice John Sopinka was appointed to the Supreme Court of Canada. As a result of those appointments two new Benchers were elected: Robert Topp of Sudbury and Jane Harvey of Toronto. Mr. Justice Chilcott was the Treasurer of

the Society at the time of his appointment and accordingly, he was a Bencher ex-officio and there was no vacancy caused by his appointment. My election as Treasurer did, however, create a vacancy and Denise Bellamy of Toronto was elected.

I wish to express the thanks of the Bench to Mrs. Laura Legge who consented to serve as Treasurer for the month of June until the regular election of Treasurer was held.

I would also like to mention the most recent judicial appointments although technically speaking they fall outside the reporting period for this Annual Report. In September, Mr. Justice James Carthy was appointed to the Court of Appeal for Ontario and Mr. Justice Paul Philp was appointed to the High Court Division of the Supreme Court of Ontario. As a result of the ensuing vacancies, Earl Levy of Toronto and Bernie Shaffer of Thunder Bay were elected as Benchers.

On October 11th, 1988, the Honourable Judge Thomas Wood was appointed to the Provincial Court Family Division. The vacancy was filled by Tom Carey of Brampton.

On behalf of the Bench and the profession I would like to thank Messrs. Chilcott, Chadwick, Sopinka, Carthy, Philp and Wood for their dedication to the work of the Society and the profession.

The year 1988 was also a year of change on the staff side. A. Rendall Dick retired as Under Treasurer on January 1st, 1988, after five years of service in that post. He was succeeded by Kenneth Jarvis the former Secretary of the Society. Mr. Jarvis held the post of Under Treasurer until his retirement on July 1st, 1988. In recognition of his thirty years of dedicated service to the Society and his contribution to the legal profession in Ontario he was elected an Honorary Bencher of the Society at the June Convocation. Mr. Jarvis was succeeded by Mr. Donald Crosbie, a former Deputy Minister in the provincial civil service.

Richard Tinsley succeeded Kenneth Jarvis as Secretary and Margaret Angevine was appointed Deputy Secretary.

[Three very important initiatives were taken in the year to improve communications between the Bench and the profession. The first was the decision to publish in the Ontario Reports a summary of Proceedings of Convocation. The summary replaces the Communique and Communique Plus. The summary of Proceedings contains a very comprehensive view of the work of Convocation in a timely fashion.]

[The second initiative was the decision to hold a series of Convocations that are open to the public and the profession. The first took place in Ottawa in April and the second in Osgoode Hall in September. Another one is planned for November again in Toronto. The open Convocations are being held on a trial basis and the results will be evaluated by a committee which will then recommend to Convocation whether or not we should continue to hold open Convocations. >

[The third initiative was the preparation and distribution of the Law Society Manual which for the first time gathered together in one publication the Law Society Act, Regulation and Rules plus information about the major operating divisions of the Society and their programs. A copy of the manual was sent to each firm as shown on the Society's records and copies were also provided to government ministries and law schools.]



LEE K. FERRIER, Q.C.

Treasurer

Law Society Medal Winners

Five distinguished members of the Bar were honoured in March, 1988, with the award of The Law Society Medal. The honour, established by the Benchers in 1984, is granted to members of the Society who perform the ordinary tasks of a lawyer but with such diligence or effectiveness or so much to the benefit of the profession as a whole that they are deserving of recognition.

Nominations for the award are reviewed by The Law Society Medal Committee which is composed of the Treasurer of the Society, four Benchers, the Chief Justice of Ontario, the President of the Canadian Bar Association – Ontario, the President of the Advocates Society, and the Chairman of Ontario Law Deans. Those awarded the Law Society Medal were:

RICHARD A. BELL, Q.C.

A former Cabinet Minister in the Government of John Diefenbaker, Mr. Bell was senior partner in the Ottawa firm of Bell, Baker and Thomson, a Past President of the County of Carleton Law Association, a Bencher of the Law Society of Upper Canada and a Member of the Law Reform Commission of Canada.

JOHN M. HODGSON, Q.C.

Mr. Hodgson was called to the Bar in 1949 and created a Queen's Counsel in 1966. From 1958-1963, he was a lecturer at Osgoode Hall Law School and is the author of numerous educational materials. Throughout his career, Mr. Hodgson has been active in the field of legal education, particularly with the Canadian Bar Association at both the Ontario and federal levels. He is a senior partner with the Toronto firm of Blake, Cassels & Graydon.

MARK M. ORKIN, Q.C.

Among members of the profession, Mr. Orkin is recognized for his two well-known texts on legal ethics and costs, and his book, *The Great Stork Derby*. As well, Mr. Orkin is the author of several books on language. Called to the Bar in 1948, he established his own firm in Toronto and was created a Queen's Counsel in 1963. A former Bencher of the Law Society, Mr. Orkin has been involved with the Ontario Legal Aid Plan and the Attorney General's Advisory Committee on French-language services.

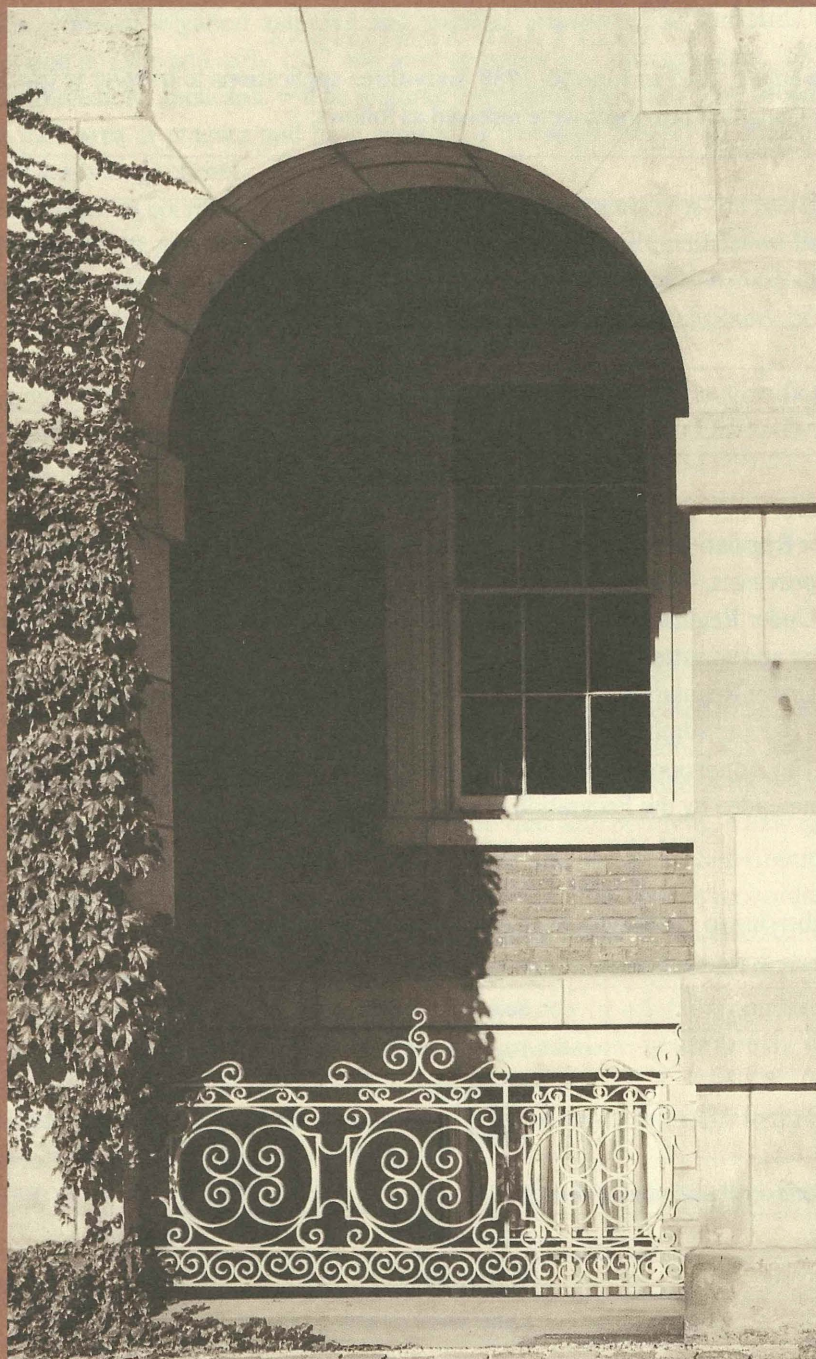
RONALD J. ROLLS, Q.C.

A partner in the Toronto firm of Faskin & Calvin, Mr. Rolls has made a significant and continuing contribution to the education of Ontario's law students. He began teaching at the Society's Bar Admission Course in 1963 and retired from that post in 1988. In addition to his teaching activities, Mr. Rolls has worked with the Ontario Supreme Court's Rules Committee for over two decades. The work of the Committee led to major changes in the Rules which now affect all Courts in the province.

RONALD F. WILSON, Q.C.

Mr. Wilson was called to the Bar in 1925 and created a King's Counsel in 1944. As an active counsel, he appeared before the trial and appeal divisions of the Supreme Court of Ontario, argued before the Supreme Court of Canada and, in the early days of his 60-year career, appeared before the Privy Council. In 1962 he served as Counsel to the Royal Commission on Organized Crime. A long-serving Bencher of the Society, Mr. Wilson was a sometimes lecturer and co-author of legal texts and a member of the Senate of the University of Toronto from 1945-53.

IRON FENCE AND ARCHWAY,
west of the Benchers' entrance, Osgoode Hall



Committee Reports

ADMISSIONS COMMITTEE

Chairman: Paul G. Philp, Q.C.

CALLS AND ADMISSIONS

From July 1, 1987 to June 30, 1988, sixty-three applications to transfer to practice in Ontario from other Canadian provinces were received as follows:

Alberta	19
British Columbia	6
Manitoba	7
New Brunswick	3
Newfoundland	1
Nova Scotia	1
Quebec	24
Saskatchewan	2

Under Regulation 4, which governs the transfer to practice in Ontario of members of other Canadian provinces, 44 applicants were called to the Bar and admitted as solicitors.

Under Regulation 5, which governs the admission of law teachers, 2 professors were called to the Bar and admitted as solicitors.

Under Regulation 6, which governs Occasional Court Appearances, 16 applicants were called to the Bar and admitted as solicitors.

The Admissions Committee has adopted the procedure for occasional appearances which was recommended by the Federation of Law Societies.

MEMBERSHIP

Membership in the Society as of June 30, 1988, consisted of:

Members in Private Practice of Law in Ontario

Sole Practitioners	4,205
Partners	5,545
Employees	2,730
Associates	1,489

Members otherwise employed in Ontario

Education	192
Government	1,611
Other employment	2,582

Members not employed in Ontario

Retired	1,289
Residing out of Province	774
Total members in good standing	20,417

CERTIFICATION BOARD

Chairman: John Sopinka, Q.C.

The Certification Board, consisting of 15 members, was established in March 1986 following the adoption by Convocation of a Report of the Special Committee on the Implementation of Specialization. The Board's first task was to establish standards for the certification of specialists in three areas – civil litigation, criminal litigation and civil and criminal litigation. The standards were developed over the course of 1986 and early 1987 and were approved by Convocation in 1987. In addition to specific requirements, applicants will be required to establish that they have broad and varied experience in their area of practice and have acquired a thorough mastery of procedures, remedies and defences available to clients.

In May 1988, Convocation approved a list of nearly 300 names of members of the profession who have been in practice for 20 years or more and who, in the opinion of the Certification Board, are well known among their peers as being specialists with a high standard of practice in one of the three areas noted above. This group will play an essential part in judging the eligibility of new applicants.

In May 1988, Convocation established a Sub-Committee (Family Law) of the Certification Board. This Sub-Committee will develop standards relevant to a specialty of Family Law and will, in due course, report to the Certification Board and ultimately to Convocation.

COMPENSATION FUND

Chairman: Roger D. Yachetti, Q.C.

There were several important changes in the administration of the Compensation Fund during the fiscal year. First, the financial limits were altered: the per claimant limit was increased to \$60,000 for funds advanced to a member on or after January 1, 1988; the per member limit was abolished commencing with all claims reported on or after January 1, 1988, against a member with respect to whom the Society had not received notice of dishonesty prior to that date. Secondly, a new appeal procedure was instituted which involves a Review Sub-Committee and an Appeal Sub-Committee of Benchers who are members of the Compensation Fund Committee. The appeals procedure will ensure that no member of the Review Sub-Committee will be a member of the Appeals Sub-Committee with respect to the same claim.

Third, changes were made to the General Guidelines after a review by a Sub-Committee. The major change was to make non compensable losses arising from investments in ventures in which members have their own money invested with money of their clients.

Convocation approved a reduction in the Compensation Fund levy from \$225 to \$145 for full-paying members for the year beginning July 1, 1988.

At June 30, 1988, there was \$23,085,090 in the Fund and there were outstanding claims of \$11,881,302.

COUNTY AND DISTRICT LIAISON COMMITTEE

Chairman: Daniel J. Murphy, Q.C.

The Committee continued in 1987-88 to ensure that the County and District Law Associations through their executive are kept aware of the issues under consideration by the Society. The Committee also functions as a vehicle for the County & District Law Associations to bring their concerns to the attention of the Benchers. In this way each group has the benefit of regular informal exchanges with the other on matters of mutual concern as well as the opportunity to seek or provide input on a variety of topics.

In addition to their involvement with this Committee, representative of the County and District Law Associations have participated in the work of some of the Special Standing Committees of the Society.

DISCIPLINE COMMITTEE

Chairman: James B. Chadwick, Q.C.

During the fiscal year, a total of 138 complaints were issued by the Society alleging professional misconduct or conduct unbecoming a barrister and solicitor.

A total of 38 reprimands were given in Committee and, in addition, Convocation dealt with 20 matters which resulted in the following dispositions:

Disbarments	8
Permitted to Resign	1
Suspended	5
Reprimanded in Convocation	6

Comparable statistics showing results for the preceding six years are as follows:

	1988	1987	1986	1985	1984	1983	1982
Disbarments	8	9	11	8	21	14	25
Permitted to Resign	1	9	6	5	15	11	11
Suspended	5	5	6	4	3	7	3
Reprimanded in Convocation	6	6	9	9	6	10	11
	20	29	32	26	45	42	50

The past year saw several court applications by solicitors facing discipline. The applications have resulted in a clarification of the Society's discipline procedures. There has however been a corresponding delay in the completion of discipline matters pending the court proceedings.

The Divisional Court has upheld the dual role of the Law Society to insure as well as discipline members in *Re: Feldman and The Law Society of Upper Canada* (unreported, December 9, 1987, Divisional Court #639/85). Leave to appeal to the Ontario Court of Appeal was refused on March 28, 1988. The Court in its reasons remarked that the role of the Law Society as an insurer does not give it any financial interest adverse to a solicitor in pending disciplinary proceedings. In dealing with the application of section 7 of the Charter, the Court said that it does not protect the right to engage in a particular type of commercial activity, employment or professional calling. Having found the Charter not applicable, the Court went on to say that even if there could be a reasonable apprehension of bias because of the disciplinary and insurance functions of the Society it would not invalidate the disciplinary proceedings because both functions are clearly authorized by the Law Society Act.

Another challenge to the discipline process was based upon the role of the clerk to the Discipline Committee. The solicitor's argument was that since the clerk, a staff lawyer, had prepared the reasons for decision, the decision was not the decision of the Discipline Committee and ought to be quashed. The majority of the Court held that on the facts of the particular case the decision was in fact that of the Discipline Committee but deplored the practice of any one other than the members of the Discipline Committee participating in the drafting of reasons. Since there was a dissent in the matter, the ultimate result is not free from doubt and there has been an appeal by the solicitor to the Ontario Court of Appeal.

In an attempt to reduce the amount of time that the Benchers must spend on discipline matters a system of pre-hearing conferences has been instituted similar to pre-trials in the courts. With the consent of both the solicitor facing discipline and the Law Society's counsel, a Bencher meets with counsel in order to try to resolve the matter or at least narrow the issues to be tried. The Bencher is not eligible to sit upon the discipline panel actually hearing the case without the consent of both parties. The idea has proven helpful in resolving several matters which otherwise would have taken a great deal of time to hear.

To ensure that the best use is made of available resources in the investigation and prosecution of complaints, a review of the process was commissioned. The study is being done by a well-known forensic accounting firm. It is anticipated their report will be received in the near future.

The Society is preparing a video cassette which it is hoped will be available at nominal cost to other interested Law Societies. The cassette, which contains video interviews with five lawyers who have been the subject of discipline proceedings, has received considerable favourable comment as an educational tool. The interviews have been shown to students in the Bar Admission Course as well as to members of local Law Associations.

COMPLAINTS

The Society receives numerous complaints each year concerning the conduct of its members. About 3,700 such complaints were received during the fiscal year, an increase of about 12% over the previous year.

Although some complaints can be resolved immediately, most require a preliminary investigation by the Society's Discipline staff. The majority of these investigations are concluded either through staff members successfully mediating the dispute between the complainant and the solicitor, or through referring the complainant to the appropriate forum for resolving the problem. A small number of complaints result in formal discipline of a member.

Three year ago, the Society established a pilot project with the County and District Law Associations whereby complaints of a minor nature were handled by local Resolution Committees. The Society found that there was disparity in the way complaints were handled and that the complainants eventually appealed to the Discipline staff when there was an unsatisfactory outcome at the local level. As a result of a policy review by the Discipline Committee, Convocation decided to discontinue to pilot project. However, the County and District Resolution Committees will continue to mediate minor disputes brought to them by local complainants.

A computer system implemented in 1987, along with revised complaints handling procedures, has helped staff members handle the increasing number of complaints. The data collected during the past year shows that a lawyer's failure to communicate with his or her clients is the most common complaint. Other concerns included: failure to fulfill financial obligations; delay; negligence; failure to report to the client; fees; failure to comply with undertakings; not following client instructions; conduct unbecoming a solicitor and conflict of interest.

The Society received an equal number of complaints in the areas of real estate law and civil litigation. Together, they accounted for 66% of all complaints. Matters relating to matrimonial law and wills-estates accounted for another 25%. The remainder were distributed among the areas of criminal, administrative and corporate-commercial law.

COMPLAINTS REVIEW

Complainants who are not satisfied with the disposition of their complaints by the Discipline staff may have the decision reviewed by one of the Society's four lay Benchers. The lay Benchers, who are not lawyers, act as Complaints Commissioners when hearing such reviews.

A complainant who chooses a Review is provided with a summary of the complaint and invited to meet with the Complaints Commissioner to discuss the matter. Procedural Guidelines established by Convocation in 1988 allow the Commissioner to return the file to the Discipline Department for further review or to seek authorization from the Chairman of the Discipline Committee for a formal complaint against the member involved after the Review has been conducted.

Of the complaints dealt with during the fiscal year, 81 requests for Complaints Review were received. This represents twice as many requests as in 1987. Twenty of the matters heard by the Commissioners were returned to the Discipline Department, one of which subsequently resulted in the formal discipline of a member.

FINANCE COMMITTEE

Chairman: John D. Ground, Q.C.

The Financial Statements reflect the results for the Society's three main funds to June 30th 1988. The General Fund encompasses administrative and professional purposes including the Bar Admission Course and Continuing Legal Education operations. The Errors and Omissions and Compensation Funds show the results of those two specific services provided by the Society as outlined in greater detail below.

GENERAL FUND

The Financial Statements for the year ended June 30th 1988 show an excess of revenue over expenses of \$119,176 on total revenues of \$17,294,543 compared to \$251,064 in 1987 on revenues of \$15,459,297. Included is net income from C.L.E. programs of \$85,000 so that our results for the year are, in effect, break-even.

An important decision of Convocation this year implemented classes of members starting with the 1988/89 fiscal year. Essentially there will be three classes of fee paying members as follows:

- I. Members engaged in legal practice in respect of the law in of Ontario, whether they do so in Ontario or in some other part of the world, including law teachers who practise and those federal, provincial and municipal government and corporate lawyers and other members who provide legal advice, opinions, or services with respect to Ontario law.

Annual Fee	\$980.00
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- II. Members who are not engaged in legal practice in respect of the law of Ontario, including those employed in education, government, corporations or any other position who do not provide legal advice, opinions or services.

Annual Fee (75% of full fee)	\$735.00
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- III. Members who are not gainfully employed in or outside of Ontario.

Annual fee (25% or full fee)	\$245.00
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In order that total revenue remain constant and because each of the three categories contribute proportionately to all funds, a reduction in fees to the other two categories means that the full fee paying members pay slightly more.

The fees and their proportionate distribution are as follows:

	General Fund	County Library	Ontario Legal Aid Plan	Compensation Fund	Total
Full Fee	\$593.00	\$54.00	\$188.00	\$145.00	\$980.00
75% Fee	445.00	40.00	141.00	109.00	735.00
25% Fee	149.00	13.00	47.00	36.00	245.00

In summary, the full fee of \$980.00 represents a 6.8% increase over the 1987-88 fee of \$918.00. It is possible to implement the classes of membership without a greater increase in fees to full-paying members to a large extent due to the funding requirements of the Compensation Fund being reduced by 40%.

While no accurate breakdown of the membership is possible, the Society's roll at June 30th 1988 showed 19,526 fee paying members compared to 18,621 the previous year. In addition to these there are 876 members excused fees as life members, permanently disabled and retired under Rule 50.

The Society is planning now for the eventual need for more space. Currently we rent over 20,000 square feet of space outside Osgoode Hall in Toronto. The lease runs to 1990 with a five year renewal clause. In order to allow for alternatives, the budget has provided for \$500,000 per year to be placed in a capital expenditure reserve for the past five years. Currently that reserve (net of some expenditures) stands at \$2,227,303. A further \$1,000,000 is included in the 1988-89 budget. It is expected that the Building Committee will present its plans for future space requirements by the end of the 1988-89 fiscal year.

It is the Society's intention to reduce the 75% fee category to 50% but our projections of numbers of members in each category are at best estimates and our experience with revenues and expenditures next year will determine whether such reduction is possible.

ERRORS AND OMISSIONS INSURANCE FUND

There has been a change in the manner in which the financial statements for the Errors and Omissions Insurance Fund are presented this year. In previous years the reserves for claim and defence costs were shown only by way of a note to the financial statements. The reserves are now shown on the liability side of the Errors and Omissions Insurance Balance Sheet together with the revised balance of fund amount. Total reserves for claim, defence, and related costs this year are \$45,025,065 leaving a balance of fund amount of \$3,189,619. (Comparative figures for the 1986-87 fiscal year restated are \$33,391,380 and \$9,072,904 respectively.)

As the Errors and Omissions function has grown over the recent years it has become imperative to report the result of this operation in a form similar to that of an insurance company. The former method of reporting on a cash basis was not adequate.

Included in the reserves are estimates of the current cost of settling claims over the life of each of the fund years. As well, an amount has been added for Law Society costs (adjuster and counsel fees) and an estimate for members' deductibles which may not be collected. Also each fund year is subject to a stop-loss amount under the insurance agreement and this is included in establishing the Society's ultimate liability.

A complete review of the Society's reserving practices and an analysis of the reserve amount at the year-end were an integral part of the auditor's examination this year.

For the 1988-89 fiscal year the primary level of coverage provided by The Law Society of Upper Canada's Mandatory Insurance Program has been increased from \$600,000 to \$1,000,000 per occurrence, including defence costs. In order to keep the insurance costs to a manageable level, the coverage paid directly by the Society by way of deductible has been increased from \$150,000 to \$250,000 per occurrence. This includes the members' individual deductible which varies from \$3,500 to \$10,000 based on claims experience. The Society's aggregate liability or "Stop-Loss" under the plan is \$22,000,000 for 1987-88 and has been increased to \$27,000,000 for the 1988-89 Fund year. In other words the Society's insurer is responsible for claims in excess of individual claim limits of \$150,000 and \$250,000 and for claims in aggregate in excess of \$22,000,000 and \$27,000,000 for the 1987-88 and 1988-89 fund years respectively.

COMPENSATION FUND

Revenues consisting of levies and investment income exceeded grants and administrative costs by \$4,995,800 at June 30th, 1988 compared to \$4,237,685 the previous year. This leaves a balance in the fund of \$23,085,090. No provision is made in the Financial Statement for outstanding claim liability, which is at June 30th, 1988 stood at \$11,881,302.

The level of claims has continued to fall from a peak of \$25,958,000 in 1985. The Society, while mindful of the fact that the surplus in the fund is at a high level, is concerned that claims experience can rapidly lead to increased pressure on the fund especially if there are negative factors in the economy as in the early 1980's.

Weighing these facts, Convocation earlier this year has increased the per claim limit to \$60,000 and abolished the former \$1,000,000 per solicitor limit. At the same time Compensation Fund Levies have been reduced by 40%.

LEGAL AID COMMITTEE

Chairman: Lee K. Ferrier, Q.C.

GENERAL

The number of people helped by the Ontario Legal Aid Plan again rose above the half-million level during the fiscal year ended March 31, 1988 – the Plan's 21st year of operation.

During the year, a total of 132,321 individuals applied for a legal aid certificate – an increase of 4,583 or 3.6% more than during the same period in 1986-87. Of the number of who applied, 102,816 (or 77.7%) were issued a legal aid certificate – an increase of 3,946 over the previous year.

Assistance provided through the Plan's Duty Counsel Program maintained a high level of activity as did help given through Community Legal Clinics and Student Legal Aid Societies.

The Legal Aid Committee dealt with a number of important administrative issues during the year including a careful study and debate on recommendations concerning the composition of the Legal Aid Committee and its Sub-Committees. Subsequently, the Committee recommended to Convocation that changes be made to the size of the Committee to help increase the efficiency with which the Plan operates.

Another important administrative matter dealt with during the year involved a review of and changes to the retainer and retirement policy affecting part-time Area Directors, who play a crucial role in the proper delivery of legal aid services across Ontario.

The Legal Aid Committee also studied the Plan's Collections Department and has overseen changes to the Department's procedures in a continuing effort to enhance the revenues flowing to the Plan from those who have entered into repayment agreements as a condition of their receiving legal help.

As noted in last year's Report, a pilot project began during the fiscal year in the Kitchener-Waterloo area to provide easier and more cost-efficient access to legal advice for low-income individuals. This project is being monitored and it will be evaluated to determine whether the project's goals are being met.

TARIFF

The continuing positive relationship between the Law Society and the Ministry of the Attorney General led to a substantial restructuring of the Criminal and Civil fee schedules during the year. This major task was accomplished as the result of many hours of detailed examination of the schedules by members of the Legal Aid Committee and other volunteers.

Reviews of the schedule of fees are now made on an annual basis by the Tariff Review Committee, a body established by Regulation and composed of two members appointed by the Law Society and two members appointed by the Ministry of the Attorney General. This annual review is designed to result in more equitable and timely adjustments to legal aid fees when warranted.

CLINIC FUNDING COMMITTEE

Chairman: Philip M. Epstein, Q.C.

Independent Community legal clinics played an increasingly important role in the Ontario Legal Aid Plan in the last fiscal year.

Under the Clinic Funding Regulation, the Clinic Funding Committee is responsible for funding and policy affecting community clinics. In accordance with the Regulation and the clinic certificate signed on behalf of the Plan and by each clinic, community clinics are administered by locally-elected Boards of Directors representative of the community the clinic serves. The Boards must establish financial eligibility guidelines and case priorities for the work of the clinic and are financially accountable to the Clinic Funding Committee. In 1987-88, the many hours of volunteer time Board members devoted to clinic work contributed significantly to the success of the community legal clinic system.

The funds allocated for clinic funding increased from \$13.6 million in 1986-87 to \$18.1 million in 1987-88.

Since 1976, when 13 existing clinics were first funded by the Ontario Legal Aid Plan, the number of clinics has grown to 64 across the province. In 1987-88, the Clinic Funding Committee approved funds to establish several new clinics: in Toronto, West Scarborough Community Legal Clinic and Workers' Health and Safety Legal Clinic; and in other parts of the province, Kingston Community Legal Clinic, la Clinique juridique du Grand Nord, Rainy River District Community Legal Clinic and Manitoulin Legal Clinic.

The Committee also approved the allocation of funds to establish 23 new staff positions in existing clinics.

Clinic legal services continue to be provided by both lawyers and community legal workers. A number of clinics provide a wide range of general legal assistance and representation in such administrative law areas as workers' compensation, unemployment insurance, welfare, pensions, and immigration and employment rights. Clinics also assist with landlord-tenant disputes, debtor-creditor problems and family matters such as juvenile and child welfare problems. The Clinic Funding Committee has also continued funding clinics that offer specialized legal services, in matters such as parole and sentencing (Queen's Correctional Law Project), environmental law (Canadian Environmental Law Association), law for the handicapped (Advocacy Resource Centre for the Handicapped), children's law (Justice for Children), seniors' law (Advocacy Centre the Elderly) and workers' compensation (Injured Workers' Consultants and Industrial Accident Victims Group of Ontario), landlord-tenant problems (Metro Tenants Legal Services and Landlords' Self Help Centre) and public legal education (Community Legal Education Ontario).

As well, a number of clinics provide services to special communities, such as the Spanish and Chinese speaking populations of Toronto and native communities in Kenora, Sioux Lookout, Thunder Bay District, Moosonee-Moose Factory and the James Bay coast, Manitoulin Island and Rainy River.

In addition to case-related services, clinics continued in 1987-88 to fulfill their special mandate under the Regulation "to encourage access" to legal services and to provide services "designed to promote the legal welfare" of their communities. Many clinics initiated community legal education and preventive law activities during the fiscal year, assisted with significant law reform proposals, and engaged in widespread efforts to create better access to the legal aid system and legal services. The Committee also allocated special funds to 13 clinics for legal education and outreach projects, such as public forums, posters and "how-to" booklets, many of which were designed to improve access to legal services by the disabled.

Community Legal Clinics – 1987 Statistics

Files open	26,715
Summary advice	95,239
Referrals to:	
private bar	11,466
OLAP	16,216
Other	22,008
	49,690
	171,644
Public legal education sessions	1,994
Legal education publications	243
Briefs/submissions to public bodies	503

In 1987-88, the Committee continued to fund initiatives aimed at improving the quality of clinic services. It allocated additional funds to the Legal Aid Plan's Research Facility in order to increase legal research in clinic areas of practice. The Committee continued to provide funding for word processing and computer equipment in clinics. As well, it allocated a large portion of its budget to the training of clinic staff. Funds were provided to enable six clinic lawyers to attend the Intensive Trial Advocacy Workshop sponsored by Osgoode Hall Law School at York University. The Committee funded the first annual Lawyers' Institute in 1987, at which clinic lawyers from across the province were brought together for three days of high-level substantive training. The Committee also increased funding to regional clinic associations organizing regular training workshops and work study groups to meet the needs of legal staff in their respective parts of the province.

The Committee continued its policy of direct consultation with clinics in meetings with clinic representatives throughout the year. In 1987-88, such consultation led to the establishment of a retirement benefits plan for clinic staff and the development of clinic performance evaluation criteria to be used by both the local Boards and the Clinic Funding Committee.

In 1987-88 the two branches of the Ontario Legal Aid Plan – the traditional fee-for-service program and independent community legal clinics – continued to work together to ensure that necessary legal services are readily available to low-income citizens of the province.

STUDENT LEGAL AID SOCIETIES

The 1987-88 fiscal year continued the multi-outlet approach taken by the Plan in the delivery of legal services to those in need. As part of that approach, the six University-based student Legal Aid Societies made a substantial contribution.

The Societies provide assistance to members of the public with respect to a variety of legal problems through the services of law students working under the supervision of faculty members. Several Societies maintain a public legal education component as part of their delivery mechanism and this facet continued to play a part in helping to educate the public about their legal rights and obligations.

The Student Legal Aid Societies are located at the following Universities:

(a)	University of Windsor
(b)	University of Western Ontario
(c)	University of Toronto
(d)	York University – Osgoode Hall
(e)	Queen's University
(f)	University of Ottawa

During the fiscal year, the Plan increased its funding to the Societies from \$719,302 in 1986-87 to \$752,415, an increase of \$33,113 or almost 5%.

LEGAL EDUCATION COMMITTEE

Chairman: Allan M. Rock, Q.C.

BAR ADMISSION COURSE

During this past year 1,091 students completed the Bar Admission Course and were called to the Bar. One hundred and eighty-three of these students attended law schools outside of Ontario or attended the Bar Admission Course after practising out of the province generally for less than three years.

Two major developments occurred during the past year. First, an articling symposium was held in April 1988. Participants included practitioners, students, law teachers, Directors of Education, Benchers and members of the judiciary. Those attending reached a consensus on the need to develop better methods of enriching and monitoring the articling experience. A report is being prepared for presentation to the Legal Education Committee later in 1988.

Second, a Sub-Committee of the Legal Education Committee engaged in a review of the teaching term of the Bar Admission Course. A report has been prepared by the Sub-Committee proposing major changes in the format and content of the teaching term. The new format will involve a so-called "sandwich model" whereby students will attend for an intensive, one-month skills course prior to articling and then a twelve-week program after articling that concentrates on the acquisition of skills, the doing of transactions in six or seven core areas and the consideration of issues that raise questions of professional responsibility. A copy of the full report can be obtained by writing to the Director of Education.

CONTINUING LEGAL EDUCATION

The Continuing Legal Education Program continued to expand during the year. As of June 1, with the program year not yet complete, 13,000 lawyers had registered for approximately 250 programs. Major growth also occurred in the sale of audio cassettes. The development of the following programs are of interest:

- (a) A major Loss Prevention program for general practitioners, using questionnaires and professionally produced video tapes was highly successful. Lawyers received a partial rebate in their insurance levy for attending the program.
- (b) The Department began offering audio teleconferencing programs to communities throughout Ontario, particularly in the north. On average, two programs were offered per week and this approach proved to be very successful.
- (c) A computer classroom opened in Toronto and approximately 15 programs per month on basic and applied computer skills are now being offered to lawyers. A similar classroom will open in Ottawa.

LEGISLATION AND RULES COMMITTEE

Chairman: C. Bruce Noble, Q.C.

The Legislation and Rules Committee is responsible for recommending and drafting necessary amendments to the Law Society Act, Regulation and Rules, and for reporting to Convocation upon legislation and other matters that may be of interest to the profession.

During the fiscal year, the Committee authorized the preparation of a detailed response to the recommendations of the Report of the Professional Organizations Committee, considered a proposal to require solicitors to advise clients of the availability of fee taxation, and drafted an amendment to s.33 (4) of the Act, which would entrench the Law Society's policy of opening disciplinary hearings to the public. The Committee also conducted a comprehensive review of previous recommendations made by the Society to the Attorney General respecting amendments to the Law Society Act.

LIBRARIES AND REPORTING COMMITTEE

Chairman: Samuel Lerner, Q.C.

The Committee continued to strive for improvements in the Great Library, the County and District Libraries and the Ontario Reports.

GREAT LIBRARY

The Great Library is nearing completion of two major projects, both with very substantial financial assistance from The Law Foundation of Ontario. The first is the expansion of the library's collection of books in order to upgrade holdings of American, Australian and New Zealand material. The second is the improvement of the Great Library's system of indexing textbooks, continuing legal education materials and organizing the materials on the shelves in classified order (that is, by topic). The project has been extended to the county libraries, so that eventually the major law libraries in the province (including the law schools and Supreme Court of Canada libraries) will arrange textbooks in roughly the same manner.

The Great library reference staff has completed a comprehensive index of Law Society CLE materials released in the past several years. The CLE Research Guide will be updated every six months and is available in all county libraries. Members are encouraged to buy the index in order to have ready access to recent Law Society educational materials. The price is \$50.00.

The Great Library introduced Sunday opening from 12:00 p.m. to 5:00 p.m. in the summer of 1988 and due to the success of this initiative Sunday afternoon opening has been extended to the end of the fiscal year.

COUNTY AND DISTRICT LIBRARIES

The county law libraries benefitted greatly from an increase in funding of \$175,000 from The Law Foundation of Ontario for the 1988 operating year. This increase, on top of funding of \$500,000 per year granted by The Law Foundation in previous years, is being distributed among all forty-seven counties to meet the higher annual operating costs of basic subscription, text and staffing services. Also, Convocation approved a \$10 increase in the County library levy, from \$40 to \$50 (pro-rated over the three new classes of members), to underwrite increased costs for 1989.

Many County Presidents and others have expressed their appreciation to the Society and to The Law Foundation for the improved level of support.

ONTARIO REPORTS

The Society continues to press for improvements in the area of electronic research. A subcommittee has been successful in encouraging QL Systems to make software enhancements to address several problems raised by the Society. More work remains to be done.

The Ontario Reports Plus database remains very popular especially for the timely updates of the database through the OR weekly paper parts. The OR database has also been established as a "practice" database. This means that lawyers can sign onto the OR practice database at a substantially reduced rate and practise their retrieval skills on the Ontario Reports. For those members who wish to "leave it to the experts", Search-Law continues to provide convenient access to the benefits of electronic legal research.

A new, totally re-cumulated Ontario Reports Consolidated Index covering volumes 1 to 64 (1973 to 1988) of the OR second series will be published for the Society by Butterworths.

The Law Society will be publishing the headnotes of the Supreme Court of Canada (SCC) decisions in the front section of the weekly parts of the Ontario Reports beginning in 1989.

MUNIMENTS AND MEMORABILIA COMMITTEE

Chairman: W. Dan Chilcott, Q.C.

THE ARCHIVES

The archives carried on its key functions of preserving, arranging and describing the records of the Law Society. The records of the Bar Admission Course and the Professional Conduct Committee were recently arranged and provided a draft detailed description. Descriptive inventories for the following Committees and offices are currently in preparation: Secretary, Building Committee, Legal Aid Committee and Treasurer. The Archives acquired extensive files of the supervising architect, Arthur Heeney, for the years 1937-1986. The records include project files and extensive plans and drawings. The preparation of a guide to the holdings of the Archives has been undertaken.

Donations to the Archives during the year included records of the Medico-Legal Society, tributes to the late Hon. Richard Bell, presented by his family, a Supreme Court of Canada centennial medal presented by Mr. Stuart Thom, and records from the firm of Smith, Rae, Greer, presented by Mr. Donald Guthrie.

Conservation work was completed on materials to be used in the Museum and other exhibition areas. A program of restoration of a small collection of nineteenth century Ontario and Toronto maps was initiated and plans have been made for a further project for the restoration of various maps and prints now hanging in Osgoode Hall.

The total number of users for the year was 85, of which a significant number were Benchers, law firms, legal organizations and members of the legal profession.

THE MUSEUM

The Law Society of Upper Canada Museum was opened in May, 1988, after a year of intensive effort in the assembling of text and materials and physical preparation. The Museum provides an informative and entertaining introduction to the history of the Law Society and the legal profession in Ontario. It treats themes such as legal education, the emergence of Law Society programs and the increasing sophistication in the practice of law over two centuries. The Museum is open weekdays between 10 a.m. and 3:00 p.m.

✱ SPECIAL PROJECTS

An important initiative of the Archives in the fiscal year was the development of an outreach program. The program is intended to enhance general awareness of the Law Society Archives and to encourage the use of its research facilities and services by local legal organizations throughout the province. The program also seeks to encourage an appreciation of legal history and documentary preservation through projects mounted by local organizations. Projects undertaken during the year have included assistance to the Carleton County Law Association and the Waterloo County Law Association in the preparation of associational histories and the development of a centennial display for the Carleton County Law Association. The Archives is also designing a mobile Law Society display, "The Heritage of a Profession", that will be available to local legal or historical organizations for special events. The production of an archives-museum brochure and poster have also been undertaken as part of the outreach project.

The Archives has undertaken projects to celebrate the bicentennial of the creation of the district courts in Ontario and the arrival of the province's first professional judge and lawyer. A major display was mounted at Mackenzie Hall, Windsor, the restored Essex County Courthouse and the site of the first professionally staffed court. The display, in a scaled down mobile version, will tour the city of Windsor through 1988-89. A series of articles for publication are in preparation to mark the event as well.

BARRISTERS'
Dining Room, Osgoode Hall



The on-line index to the Minutes of Convocation from 1968 to the present has been completed to 1979. The index is intended to serve as an operational, administrative as well as a research tool, meeting day-to-day reference needs.

The typescript of the Osgoode letters completed by the Archives volunteers, Susan Scace and Jane Hill, has been typeset. Introduction and notes to accompany the letters have been prepared by Professor Douglas Hay of Osgoode Hall Law School and Dr. Ruth Paley. Publication of the letters is anticipated early in fiscal 1988-89.

The volunteers are currently preparing descriptive captions for the portrait collection. The captions will provide a synopsis of the life and achievements of both the subjects and artists.

PRACTICE AND INSURANCE COMMITTEE

Chairman: Patrick G. Furlong, Q.C.

During the insurance year July 1, 1987 – June 30, 1988 the Law Society's mandatory primary insurance provided \$600,000 limits, inclusive of defence costs, subject to individual variable deductibles ranging from \$3,500 to \$10,000 depending upon the individual solicitor's claims record. The group deductible inclusive of the individual payments was \$150,000. The policy provided the Society with complete protection above stop loss limits of \$22,000.

The individual levy against members ranged from \$940 to \$3,750 dependent upon the member's claims record. The average levy was \$1,068. Claims are projected and the levy is calculated to provide premiums which together with investment income will generate sufficient income to pay both the insurance premiums to the insurer, and provide funds to meet the Society's obligation for payment of the incurred 1987-88 claims.

The members of the Law Society of the Northwest Territories were provided professional liability insurance under sponsorship of the Society commencing July 1, 1987. Similar benefits were made available to the members of the profession in Newfoundland commencing January 1, 1988. Because of favourable loss experienced in those two jurisdictions during the period ending June 30, 1988, it is anticipated the Law Societies of both Newfoundland and the Northwest Territories will be the beneficiaries of significant refunds of their insurance premiums.

For the 1988-89 insurance year the Society negotiated with American Home for primary mandatory coverage of \$1,000,000 inclusive of defence costs. The group deductible will be increased to \$250,000 and stop loss cover to \$27,000,000. The premium for Ontario solicitors will range from \$1,222 to \$4,875 which includes a \$30.50 assessment towards the costs of the Society's Practice Advisory Service. The members of the profession in the Northwest Territories and Newfoundland will continue to receive professional liability insurance through our plan for the year commencing July 1, 1988.

The Society does not provide or arrange for coverage in excess of the mandatory limit, but it does take an interest in the availability and cost of such coverage. During our negotiations we encourage the primary insurer to make excess coverage available at reasonable costs. For the 1988-89 year, coverage in excess of \$1,000,000 will be available at a reduction of not less than 10% of the 1987-88 premiums.

The Law Society's extensive data bank and management of its insurance program continues to assist our professional colleagues across Canada at both the primary and excess levels of insurance. Our plan is currently being studied by our colleagues in the United Kingdom and the United States of America.

The Practice and Insurance Committee continues to be actively concerned with many issues relating to the provision of professional liability insurance, including risk management, direct and indirect loss prevention programs, monitoring and controlling defence costs, and an almost continual assessment of the feasibility and practicability of providing necessary coverage through the medium of a captive insurer which is an option now available to the Society if and when it is deemed appropriate or necessary.

Our Department of Insurance, the insurer American Home, and our brokers Marsh & McLennan remain in very active communication with one another throughout the insurance year. These communications include frank disclosure and discussion of actual and perceived changes in the risk, costs, etc., whether those be advantageous or prejudicial to the Society or the insurer. It is hoped and anticipated that this relationship of mutual trust which has been carefully fostered over the past several years will continue the objective of providing to our members essential insurance coverage at reasonable costs.

PRACTICE ADVISORY SERVICE

Over 5,000 members received guidance or assistance from the Practice Advisory Service during the year on a wide range of subjects, from advice on setting up new practices to mentoring on complex litigation issues. Most of the service was provided in about 4,500 responses to telephone calls. Approximately 70% of the calls related to office administration including trust accounting, billing procedures, time and file management, practice and partnership changes, marketing, and personal or career issues (substance abuse, stress, career alternatives, etc.). The remaining 30% of the calls related to client files, with most being in the areas of real estate, wills and trusts, civil litigation and family law.

The Service does not provide legal advice, but provides guidance of a practical nature or, as in many calls, comment on ethical or loss prevention concerns. The Service frequently refers members to helpful text material or recent case law. It is not unusual for callers to be urged to seek the assistance of expert counsel.

The Service had about 300 meetings with members to discuss office management and to provide guidance on practice organization. The Service makes "house calls" and most of these meetings were in lawyers' office throughout Ontario.

The very successful Start-Up Workshops for Bar Admission graduates considering opening their own practices were repeated in March at Toronto, London and Ottawa. Seven sessions were attended by about 50 Bar Admission Course graduates. These are "nuts and bolts" sessions for small groups to provide practical advice about opening a practice, including space arrangements, banking, budgets, furniture and equipment, business promotion, accounting and financial controls, and other useful information experienced practitioners can pass to those starting their careers in practice.

The Service contributed to other Law Society activities, including the Professional Conduct Committee review of Rule 9 (Fees and Disbursements) and the development of the Professional Standards Program. In the area of education, staff members participated in the Bar Admission Course on The Business of the Practice of Law, which combined office management with loss prevention. The Director of the Advisory Service was the editor of the very useful 428 page text for this course, and authored much of the material. The Service also assisted in organizing and presenting education programs on loss prevention, ethical issues for legal secretaries, and time-stress management.

The fact that the Advisory Service deals with Law Society members on a confidential basis is a key element in the success of the Service. This confidentiality has enabled the Service to assist several members in reaching out for effective help with personal problems that might have impeded their ability to continue to practice as competent lawyers. It has also been a very positive element in the ability of the Service to help a few members in reorganizing their personal and professional lives after treatment for alcoholism or drug addiction. The Service is particularly grateful to the Ontario Bar Alcoholism Programme for the effective work it is doing in helping members, and families of members, encumbered by alcohol or drug problems.

PROFESSIONAL CONDUCT COMMITTEE

Chairman: A. Burke Doran, Q.C.

MEDICO-LEGAL REPORTS

Members of the Law Society met with officials of the Ontario Medical Association to discuss setting up an effective mechanism that would provide for the mediation of disputes between lawyers and doctors over the quantum of fees being charged for medico-legal reports. It is hoped that a suitable program will be implemented by late 1988.

FEES AND DISBURSEMENTS

Rule 9 of the Rules of Professional Conduct on fees and disbursements contains very specific guidelines on what are accepted disbursements. The Committee was asked to consider whether the Rule should specifically detail what are accepted disbursements (the present situation) or whether the Rule should simply contain a statement that whatever is charged by the lawyer to the client as a disbursement should be either the exact or the proximate cost incurred by the lawyer.

The Committee debated the matter fully and concluded that the Rule should be amended to be more general but to require that the actual or approximate cost of disbursements be fully revealed to the client. The Committee will be considering this further in the fall after receiving submissions from the County and District Law Associations of Ontario and the Canadian Bar Association – Ontario.

CONTINGENT FEES

Convocation adopted the Special Committee on Contingent Fees' recommendation to approve in principle the introduction into Ontario of contingent fees in litigation matters other than in:

- (a) matrimonial proceeding save in cases where proceedings have been commenced to collect arrears in support payments; and
- (b) criminal proceedings.

The Special Committee will be reconvening to work out a proposal as to how the mechanics of contingent fee arrangements might be structured to ensure proper protection for the client. An amendment to the Solicitors Act would be required to permit contingent fees and this can only be done through the Legislature.

CHINESE WALLS

Convocation considered whether Rule 5 (Conflict of Interest) should be amended to permit the use of Chinese Walls. The term refers to an arrangement that would enable a law firm to represent different clients in the same transaction by enabling the lawyer representing one side to keep all matters confidential from the lawyer representing the other. The device is used in some law firms in the United States but only with the informed consent of the clients on both sides of the transaction. Convocation, however, accepted the recommendation of the Professional Conduct Committee that the technique should not be used here and therefore it was not necessary to amend Rule 5.

OPINIONS OF THE PROFESSIONAL CONDUCT COMMITTEE

A compendium of the Committee's opinions rendered during the last eighteen years is currently in preparation for inclusion in the Law Society Manual. The Manual was mailed to the profession in July, 1988. The insert covering the eighteen years of opinions should be ready for circulation in January 1989.

PROFESSIONAL STANDARDS COMMITTEE

Chairman: James M. Spence, Q.C.

The Committee has proceeded with its task of identifying solicitors who are falling below the minimum standard of practice and designing remedial programs for them.

During the past year the Committee has recruited a number of practising members to assist the Committee in its work, specifically in the assessment of the individual solicitor's practice and the problems in it. These practitioners represent a variety of types of practices drawn from almost every area of the province.

In addition, a Sub-Committee has been struck to consider what criteria are relevant in assessing the competence of criminal lawyers. The Sub-Committee is well into its task and is expected to report in late 1988.

PUBLIC INFORMATION COMMITTEE

Chairman: Ian Outerbridge, Q.C.

The Committee continues to be active throughout the Province to provide the public with information about the law, the legal system and the legal profession. As well, through the Lawyer Referral Service, members of the public can obtain no-charge access to legal advice. The Committee's other programs are designed to supplement its main goals of enhancing public information and access.

* DIAL-A-LAW

With about 125 pre-recorded tapes on a wide variety of legal topics, the Dial-A-Law program continued to fill the public's need for general legal information. The program handles about 600 calls daily (about 150,000 annually).

The Committee has embarked on a new phase of service through Dial-A-Law which will, beginning in late 1988, provide public access to the program on a 24-hour-a-day, 7-days-a-week basis. The new equipment will also enable the program to provide information in a variety of languages (the Service is currently available in English only).

During the reporting period, the Committee launched a modest media advertising program through newspaper and radio of the Dial-A-Law program. The advertising resulted in a substantial increase in the number of calls to Dial-A-Law (the number of calls in the first five months of 1988 are up 22% over the same period last year).

A LAWYER REFERRAL SERVICE

In late 1987, the Committee recommended to Convocation and Convocation approved a proposal to eliminate the \$20 initial consultation fee which members participating in the LRS could charge to individuals referred through the Service. All practising members of the Bar were solicited to join the changed LRS and some 6,000 responded. The new LRS was announced to the media in mid-February.

At the same time, the computerization of the LRS was completed, thus enabling the five operators to provide more complete and efficient service to the almost 500 callers they deal with each day (about 125,00 a year).

The Service's records now indicate not only the area(s) of law for each participating member, but also whether he or she accepts legal aid certificates, whether their offices are accessible to the disabled, whether they will visit institution or home-bound individuals, whether they have a TDD (Telephone Device for the Deaf) or are proficient in sign language as well as their call to other jurisdictions and languages spoken and written.

The popularity of the new program with members of the public can be seen by the 36% increase in calls handled in the first five months of 1988 compared with the same period last year.

OTHER PROGRAMS

The Committee continues, in co-operation with the Ontario Legal Aid Plan, to take part in shows and exhibitions around Ontario. The Legal Aid/Law Society booth and volunteer members of the Bar from the community involved enable the public to gain information about the law and the profession.

Through the Information Department's Director, the Committee maintains positive relations with the media in an on-going attempt to ensure that members of the media have access to timely information about the profession and the Ontario Legal Aid Plan.

The Information Department issues monthly a NewsUpdate providing Benchers and senior staff with updated information about topics of interest to the media and prepares both the Law Society and Legal Aid Annual Reports.

RESEARCH AND PLANNING COMMITTEE

Chairman: James J. Carthy, Q.C.

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The Committee continued to pursue its function to develop and maintain an informed and forward looking perspective from which to provide Convocation with a sound basis upon which to decide the Society's direction and policies in coming years.

The composition of the Committee reflects a wide spectrum of views. In addition to its Benchers members, the Committee has several non-Benchers members including one lay person. Detailed analysis of policy issues may be carried out in a variety of ways utilizing the services of professional research staff and advisors in appropriate cases.

Projects undertaken in 1987-88 year include studies in the following subject areas:

- | |
|-----------------------------------|
| 1. Alternate Dispute Resolution |
| 2. Stress and Assistance Programs |
| 3. Open Convocation |

UNAUTHORIZED PRACTICE COMMITTEE

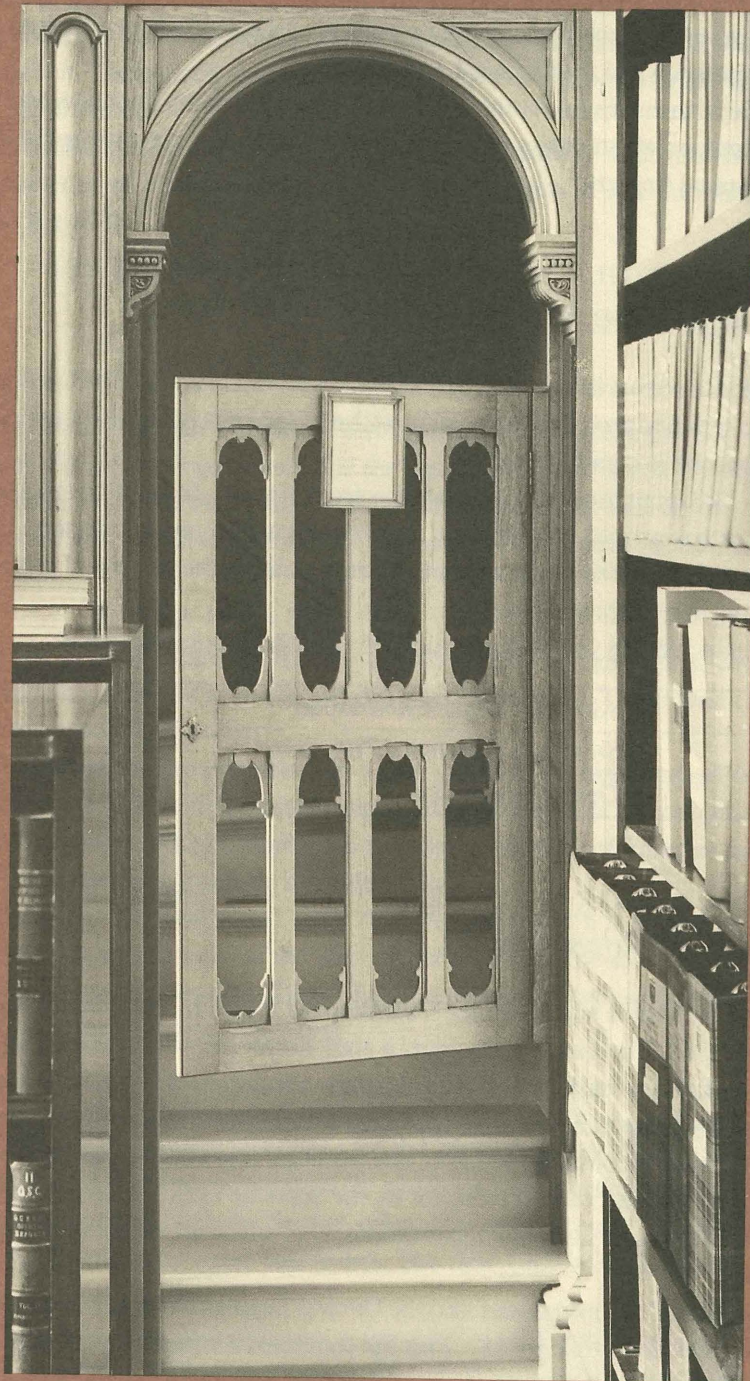
Chairman: Clayton Ruby, Esq.

There was a considerable increase in activity by the Unauthorized Practice Committee in the period July 1, 1987 to June 30, 1988. The Law Society hired a staff lawyer to oversee the Unauthorized Practice Department on a full time basis as well as to prosecute allegations of unauthorized practice of law. Last year, 10 paralegal organizations were convicted of unauthorized practice of law and 24 other prosecutions are before the courts. In addition, one paralegal organization has been enjoined from continuing to practise as a barrister and solicitor by the Supreme Court of Ontario. There are over 220 active files on independent paralegal organizations 39 of which are under active investigation by the Department.

Bill 42, a private members' Bill introduced into the Ontario Legislature, died when an Ontario Provincial Election was called in the fall of 1987. This Bill contained a scheme for the regulation of independent paralegals. No replacement legislation has been introduced into the legislature, however, the Attorney General has appointed a Task Force to be headed by University of Windsor President Ronald Ianni, to look into the question of paralegal practice in the Province of Ontario. This Task Force is expected to report in early 1989.

During the year, the Law Society created a Special Committee on Paralegals which is reviewing the questions of regulation, training and insuring of independent paralegals in the province. The Special Committee is considering various areas of law in an effort to determine what tasks, if any, could properly be delegated to non-lawyers. The report of this Special Committee is expected in September.

WICKET GATE
at the stair to the east gallery, The Great Library, Osgoode Hall



Financial Statements

June 30, 1988

AUDITORS' REPORT

TO THE MEMBERS OF THE LAW SOCIETY OF UPPER CANADA:

We have examined the balance sheet of The Law Society of Upper Canada as at June 30, 1988 and the General Fund statements of revenue and expenses and operating surplus, the General Fund statement of changes in financial position and the Errors and Omissions Insurance Fund and Compensation Fund statements of revenue and expenses and balance of fund for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests and other procedures as we considered necessary in the circumstances.

In our opinion, these financial statements present fairly the financial position of the funds as at June 30, 1988 and the results of operations of the funds and the changes in financial position of the General Fund for the year ended in accordance with accounting principles described in note 1 applied, after giving retroactive effect to the change in the method of accounting for reserves described in note 4(c) to the financial statements, on a basis consistent with that of the preceding year.

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Toronto, Canada,
August 24, 1988.



Chartered Accountants

*Balance Sheet**Assets**June 30, 1988*

(with comparative figures at June 30, 1987)

GENERAL FUND:	1988	1987
<i>Current -</i>		
Short-term investments, at lower of cost and market value (approximate market value \$6,850,237; 1987 — \$6,033,000)	\$ 6,823,901	\$ 6,028,643
Accounts receivable (note 2(a))	886,415	766,226
Inventory	166,085	179,045
Prepaid expenses		59,989
TOTAL CURRENT ASSETS	7,876,401	7,033,903
Fixed assets, at cost —		
Land, building, furnishings and major alterations (note 3)	7,626,411	7,549,994
	15,502,812	14,583,897
ERRORS AND OMISSIONS INSURANCE FUND (NOTE 4):		
Cash		319,956
Short-term investments, at lower of cost and market value (approximate market value \$12,386,846; 1987 — \$10,613,000)	12,337,155	10,611,109
Deductible portion of claims due from members	456,540	408,533
Interest and other receivables	1,534,565	1,072,985
Portfolio investments, at amortized cost (market value \$37,674,043; 1987 — \$32,774,000)	37,648,949	32,168,771
	51,977,209	44,581,354
COMPENSATION FUND (NOTE 5):		
Cash	176,028	43,383
Short-term investments, at lower of cost and market value (approximate market value \$4,369,100; 1987 — \$3,781,000)	4,323,959	3,773,568
Interest and other receivables	452,083	239,463
Portfolio investments, at amortized cost (market value — \$17,965,375; 1987 — \$13,968,000)	18,178,288	14,032,876
	23,130,358	18,089,290
	\$ 90,610,379	\$ 77,254,541

*Approved by Convocation:**Treasurer**Chairman of Finance Committee*

Liabilities and Balances of Funds

GENERAL FUND:	1988	1987
<i>Current —</i>		
Bank indebtedness	\$ 21,419	\$ 476,597
Accounts payable and accrued liabilities	1,961,217	1,181,009
Deferred revenue	80,202	125,000
Accrued legal aid fee (note 9)	1,669,383	1,649,876
TOTAL CURRENT LIABILITIES	3,732,221	3,432,482
Balance of fund —		
Operating surplus	1,916,877	1,797,700
Reserve for major capital expenditures (note 3)	2,227,303	1,803,721
Equity in fixed assets	7,626,411	7,549,994
TOTAL BALANCE OF FUND	11,770,591	11,151,415
	15,502,812	14,583,897
ERRORS AND OMISSIONS INSURANCE FUND:		
Bank indebtedness	1,476,988	
Accounts payable and accrued liabilities	1,266,408	776,466
Deferred revenue	1,019,129	1,340,604
Reserves	45,025,065	33,391,380
Balance of fund	3,189,619	9,072,904
	51,977,209	44,581,354
COMPENSATION FUND:		
Accounts payable	45,268	
Balance of fund (note 5)	23,085,090	18,089,290
	23,130,358	18,089,290
	\$ 90,610,379	\$ 77,254,541

(See accompanying notes to financial statements)

Statements of Revenue and Expenses and Operating Surplus

STATEMENT OF REVENUE AND EXPENSES

REVENUE:	Total		Administrative, professional, library and reporting	
	1988	1987	1988	1987
Annual fees	\$ 8,972,746	\$ 8,515,050	\$ 8,972,746	\$ 8,515,050
County libraries — fees	767,170	569,908	767,170	569,908
— grant	587,500	500,000	587,500	500,000
Call fees	242,310	236,690	242,310	236,690
Admission fees	138,578	126,271	138,578	126,271
Investment income	521,424	398,086	521,424	398,086
Ontario report royalty	47,133	29,942	47,133	29,942
Library sundry	154,404	109,376	154,404	109,376
Library search law	195,321	195,498	195,321	195,498
Other grants	130,000		130,000	
Miscellaneous	147,174	110,646	147,174	110,646
Catering	552,865	147,920	552,865	147,920
Bar admission — fees	1,560,844	1,340,424		
— grants	1,233,521	1,294,574		
Continuing legal education	2,043,554	1,884,912		
TOTAL REVENUE	17,294,544	15,459,297	12,456,625	10,939,387
EXPENSES:				
Secretariat	1,498,166	1,536,922	1,498,166	1,536,922
Finance and administration	1,405,657	1,294,799	1,405,657	1,294,799
Discipline	1,179,142	1,039,446	1,179,142	1,039,446
Audit fees	1,197,157	1,161,637	1,197,157	1,161,637
Public information	848,594	633,008	848,594	633,008
Professional conduct	191,339	183,210	191,339	183,210
Admissions	7,195	9,544	7,195	9,544
Catering	507,095	149,320	507,095	149,320
County & district	40,760	28,788	40,760	28,788
Muniments and memorabilia	69,301	59,864	69,301	59,864
Unauthorized practice	176,375	82,091	176,375	82,091
Libraries and reporting	2,516,471	2,090,062	2,516,471	2,090,062
County & district library grants	587,500	500,000	587,500	500,000
Library search law	229,259	237,077	229,259	237,077
Building and grounds	1,469,340	1,283,521	1,469,340	1,283,521
Bar admission course	2,794,366	2,634,998		
Continuing legal education	1,957,650	1,783,946		
TOTAL EXPENSES	16,675,367	14,708,233	11,923,351	10,289,289
Excess of revenue over expenses before provision for major capital expenditures	619,177	751,064	533,272	650,098
Provision for major capital expenditures	500,000	500,000	500,000	500,000
Excess of revenue over expenses for the year	\$ 119,177	\$ 251,064	\$ 33,272	\$ 150,098

STATEMENT OF OPERATING SURPLUS

	1988	1987
Balance of operating surplus, beginning of year	\$ 1,797,700	\$ 1,546,636
Excess of revenue over expenses for the year	119,177	251,064
Balance of operating surplus, end of year	\$ 1,916,877	\$ 1,797,700

*General Fund**Statement of Changes in Financial Position**for the year ended June 30, 1988*

(with comparative figures for the year ended June 30, 1987)

**CASH AND SHORT-TERM INVESTMENTS PROVIDED BY
(USED IN) OPERATING ACTIVITIES:**

	1988	1987
Excess of revenue over expenses for the year	\$ 119,176	\$ 251,064
Add charge not involving an outlay of cash and short-term investments — Provision for major capital expenditures	500,000	500,000
<i>Other operating sources (uses) —</i>		
Accounts receivable	(120,189)	(350,135)
Inventory	12,960	(55,425)
Prepaid expenses	59,989	(14,223)
Accounts payable and accrued liabilities	780,208	(180,337)
Deferred revenue	(44,798)	125,000
Accrued legal aid fee	19,507	1,649,876
	1,326,853	1,925,820

**CASH AND SHORT-TERM INVESTMENTS USED IN
INVESTING ACTIVITIES:**

Fixed asset additions	(76,417)	(140,479)
Net increase in cash and short-term investments during the year	1,250,436	1,785,341
Cash position, beginning of year	5,552,046	3,766,705
Cash position, end of year	\$ 6,802,482	\$ 5,552,046

CASH POSITION REPRESENTED BY:

Short-term investments	\$6,823,901	\$6,028,643
Bank indebtedness	(21,419)	(476,597)
	\$6,802,482	\$5,552,046

(See accompanying notes to financial statements)

Errors and Omissions Insurance Fund

Statements of Revenue and Expenses, Balance of Fund and Reserves

for the year ended June 30, 1988

(with comparative figures for the year ended June 30, 1987)

STATEMENT OF REVENUE AND EXPENSES

REVENUE:	1988	1987
Members' levy (note 4)	\$ 14,732,637	\$ 14,450,869
Investment income	4,721,135	4,078,624
Miscellaneous	27,674	
	19,481,446	18,529,493
EXPENSES:		
Provision for claims, defence and related costs	21,193,368	18,709,088
Insurance premium	2,470,000	1,922,000
Salaries	664,174	552,340
Administration	419,631	359,946
Brokerage fees	80,000	80,000
Rent	141,304	127,061
Practice advisory services	396,254	368,396
	25,364,731	22,118,831
Deficiency of revenue over expenses for the year	\$ (5,883,285)	\$ (3,589,338)

STATEMENT OF BALANCE OF FUND

Balance of fund, beginning of year	\$ 9,072,904	\$ 12,662,242
Deficiency of revenue over expenses for the year	(5,883,285)	(3,589,338)
Balance of fund held for future claims and expenses, end of year (note 4)	\$ 3,189,619	\$ 9,072,904

STATEMENT OF RESERVES

Reserve balance, beginning of year (note 4)	\$ 33,391,380	\$ 23,755,020
Provision	21,193,368	18,709,088
Less payments	(9,559,683)	(9,072,728)
Reserve balance, end of year	\$45,025,065	\$33,391,380

(See accompanying notes to financial statements)

Compensation Fund *Statements of Revenue and Expenses and Balance of Fund*

for the year ended June 30, 1988

(with comparative figures for the year ended June 30, 1987)

STATEMENT OF REVENUE AND EXPENSES

REVENUE:	1988	1987
Annual levy	\$ 4,245,372	\$ 4,470,341
Investment income	1,873,418	1,359,210
	6,118,790	5,829,551

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EXPENSES:		
Grants paid, less recoveries	804,443	1,307,944
Counsel fees, referee fees and administrative costs	108,171	63,090
Salaries and benefits	186,813	185,251
Reporters and sundries	14,881	28,002
Computer project	8,682	7,579
	1,122,990	1,591,866
Excess of revenue over expenses for the year	\$ 4,995,800	\$ 4,237,685

STATEMENT OF BALANCE OF FUND

Balance of fund, beginning of year	\$ 18,089,290	\$ 13,851,605
Excess of revenue over expenses for the year	4,995,800	4,237,685
Balance of fund, end of year (note 5)	\$ 23,085,090	\$ 18,089,290

(See accompanying notes to financial statements)

*Notes to Financial Statements**June 30, 1988*1. SIGNIFICANT ACCOUNTING POLICIES

- (a) The Society uses fund accounting, whereby the general fund is used to account for the Society's various operations, the compensation fund for its compensation grants, and the errors and omissions insurance fund for insurance claims (partly self-insured) and for administrative costs and adjusters' fees.
- (b) The Society operates on the accrual basis of accounting, whereby revenue is allocated to the year deemed applicable. Operating expenses include amounts for goods or services received or rendered within the fiscal year. Grants and related expenses from the compensation fund are recorded in the accounts when approved for payment.
- (c) Short-term investments are stated at the lower of cost and market value.
- (d) Portfolio investments held for the compensation fund and the errors and omissions insurance fund are recorded at cost and adjusted for amortization of premiums and discounts. Any premium or discount from the par value is amortized over the term to maturity.
- (e) Land, building, furnishings and major alterations are stated at cost. No depreciation is recorded in the accounts in respect of these assets. However, an annual provision for major capital expenditures is made. Minor capital expenditures are expensed in the year of acquisition.
- (f) Income earned on fund investments remains within the specific fund for which the investments are held.
- (g) Inventory of Continuing Education publications and printing materials is valued at the lower of cost and net realizable value.
- (h) Administrative expenses include only those salaries and other expenses not allocated directly to specific activities.

2. THE LAW FOUNDATION OF ONTARIO

- (a) Bar Admission Course Grant —
During the year, the Society obtained a grant from The Law Foundation of Ontario to cover the operating deficit of the Bar Admission Course up to a maximum of \$600,000 (1987 – \$600,000), after taking into account receipt of the annual grant from the Province of Ontario. The actual operating deficit, which amounted to \$407,521 (1987 – \$500,574), was billed after June 30, 1988 and is included in accounts receivable.
- (b) County and District Library Grants —
The Society also received from The Law Foundation of Ontario on behalf of county and district libraries \$587,500, all of which was disbursed on account of administrative costs and the purchase of books.
- (c) Other grants —
A further \$130,000 was received from The Law Foundation of Ontario to support Dial-A-Law, muniments and memorabilia, and publication of the Gazette.

3. RESERVE FOR MAJOR CAPITAL EXPENDITURES

The Society makes an annual provision for major capital expenditures. As such expenditures are made, the accumulated provision is reduced and equity in fixed assets is increased by a corresponding amount. The cost of books and records for the libraries are expensed when purchased.

The building and equipment of the Society are valued for insurance purposes at an estimated replacement cost of \$38,816,000. The books and records located at the Great Library are valued for insurance purposes at an estimated replacement cost of \$15,000,000. The books and records located at country and district libraries are valued for insurance purposes at an estimated replacement cost of \$14,663,000.

Details of the account are as follows:

	1988	1987
Reserve, beginning of year	\$ 1,803,721	\$ 1,444,200
Less amount expended during the year	(76,418)	(140,479)
Provision for major capital expenditures	500,000	500,000
Reserve, end of year	\$ 2,227,303	\$ 1,803,721

4. ERRORS AND OMISSIONS INSURANCE FUND

- (a) The Society's current errors and omissions insurance plan insures members against claims for errors discovered from calendar 1977 onwards, with losses being covered on the following basis:

		1988	1987	1983 through 1986	1981 and 1982	1980
<i>Borne by —</i>						
Member	first	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000	\$ 5,000
Errors and omissions insurance fund	next	145,000	145,000	95,000	95,000	30,000
Insurer	next	450,000	450,000	400,000	150,000	215,000
Total coverage per occurrence		\$600,000	\$600,000	\$500,000	\$250,000	\$250,000

- (b) A separate fund is set up each year to provide for claims reported to the Society during that year. The maximum fund loss experience for any year is limited by a stop loss agreement with the insurer.
- (c) The Society adopted in 1988 the accrual method of accounting for the cost of future claims. In prior years, claims were recorded when paid. The newly adopted method estimates the amounts necessary to settle claims made in the current year together with adjustments to amounts recorded in prior years, and records this amount as the claims expense for the year. This change, from a cash to an accrual basis in accounting for the cost of claims, was applied retroactively and resulted in an increase in claims expense in 1987 from \$9,072,728 to \$18,709,088 and resulted in an opening reserve for claims as at July 1, 1986 of \$23,755,020.
- (d) Members may obtain bank loans to enable them to repay their liability for the deductible portion of claims paid. The Society has guaranteed these loans. Loans outstanding at June 30, 1988 amount to \$194,103 (1987 – \$107,725).
- (e) Deferred revenue arises from a provision within the errors and omissions levy and deductibles, whereby any favourable-experience rebates will be applied against payment of future levies.

5. COMPENSATION FUND

Convocation may make grants from the compensation fund in order to relieve or mitigate loss sustained by any person arising mainly from dishonesty on the part of a member of the Society.

Annual levies for this fund vary from year to year to reflect the anticipated grants. At the year end, claim applications of approximately \$11,881,302 (1987 – \$13,792,320) had been received. Grants are made within discretionary limits approved by convocation. Strict application of the applicable limits to existing claims indicates that the maximum grants under the program would aggregate \$5,043,760.

6. ENDOWMENT FUNDS

The Society administers endowment funds from the earned income of which prizes, bursaries and gifts are made annually. At the year end, the endowment funds consisted of cash, investments and interest and other receivables of \$392,438 (1987 – \$372,887), of which \$236,491 was capital and the balance of \$157,442 (1987 – \$136,647) was unexpended income. Prizes, bursaries and gifts of \$8,492 (1987 – \$17,826) were paid during the year.

7. PENSION PLAN

Effective January 1, 1988, the Society replaced the defined benefit pension plan with a defined contribution pension plan. The actuarially determined surplus of the old plan of \$1,300,000, was applied as follows: \$1,000,000 to increase pension benefits of current members; \$200,000 as a pensioners' supplement; and \$100,000 to cover expenses incurred in establishing the new plan. The plan covers 135 employees of The Law Society of Upper Canada and 180 employees at the offices of the Ontario Legal Aid Plan.

The Society's annual pension expense (which includes legal aid) for 1988 amounted to \$239,000 (1987 – \$240,000).

8. LEASE COMMITMENTS

The Society is committed to monthly lease payments for property and computer facilities under leases having various terms up to July, 1993. Approximate monthly lease payments over the next five years and in total are as follows:

	1989	1990	1991	1992	1993	Total
<i>Bar Admission —</i>						
London	\$ 90,100	\$ 90,100	\$ 90,100	\$ 88,900		\$ 359,200
Ottawa	130,800	135,000	145,000	145,000	\$145,000	700,800
<i>204 Richmond Street West —</i>						
Toronto	307,800	282,100				589,900
Computer equipment	97,400	97,400	97,400	56,800		349,000
	\$626,100	\$604,600	\$332,500	\$290,700	\$145,000	\$1,998,900

9. LEGAL AID FUND

The Society is empowered to administer the Legal Aid Plan and to maintain the Legal Aid Fund in accordance with the Legal Aid Act. The Society reports annually to the Attorney General on the accounts and financial transactions of the Fund, which are subject to audit by the Provincial Auditor and are not included in these financial statements.

Annual fees this year included an amount of \$175 per member as the Society's contribution to the administration of the Legal Aid Plan. The accrued legal aid fee represents the balance of funds collected from members after having paid or accrued the statutory contribution of \$3,339,740, which is 25% of the "assessable administrative costs" of the Legal Aid Plan for the fiscal year ended March 31, 1988. The accrued legal aid fee as at June 30, 1988 will be applied against the Society's ongoing commitment for 1989 and successive years, on the basis that the contribution will increase from 25% in 1988 to 50% thereafter.

10. RECLASSIFICATION

Certain of the 1987 comparative figures have been reclassified to conform to the presentation adopted in the current year.

*Benchers of
The Law Society of Upper Canada
at June 30, 1988*

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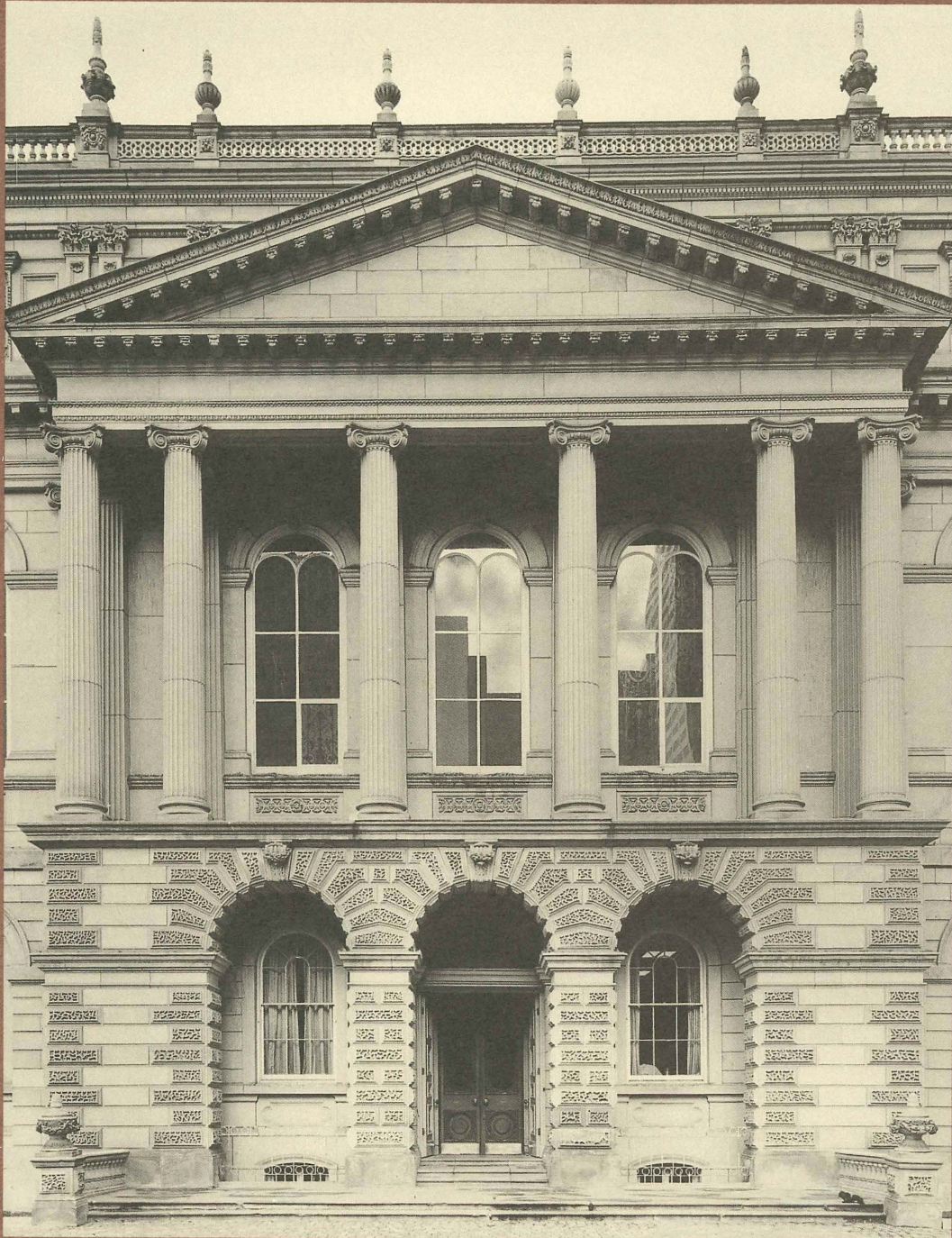
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The Law Society of Upper Canada

at June 30, 1988

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